

In the Matter of

HAROLD OLSHANSKY,

Holder of Pharmacist License No. S08834

for the Practice of Pharmacy in the State of  
Arizona

**FINDINGS OF FACT, CONCLUSIONS  
of LAW and BOARD ORDER  
Number 09-0004-PHR**

Pursuant to Notice of Hearing Number 09-0004-PHR (Notice) this matter came before the Arizona State Board of Pharmacy (Board) on June 17, 2009.

Dennis McAllister, president, presided with members Zina Berry, JoAnne Galindo, Dan Milovich, Ridge Smidt, Steve Haiber and Tom Van Hassel in attendance.

The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant Attorney General, Licensing and Enforcement Section. Christopher Munns, of the Solicitor General's Section of the Attorney General's Office was present and available to provide independent legal advice to the Board. Harold Olshansky, (Respondent) was present and was represented by attorney Teressa M. Sanzio.

The Board, after considering the testimony and evidence presented, hereby issues the following Findings of Fact, Conclusions of Law, and Order.

## PARTIES AND JURISDICTION

1. The Board is the duly constituted authority for licensing and regulating the practice of pharmacy in the State of Arizona.

2. Respondent is the holder of license number S008834 which allows him to practice as a pharmacist in the State of Arizona.

3. Under A.R.S. § 32-1901, *et. seq.*, the Board possesses jurisdiction over the subject matter and over Respondent as a licensee of the Board.

#### FINDINGS OF FACT

1. During all times relevant to these Findings, Respondent worked as a pharmacist at CVS Pharmacy #89 in Scottsdale, Arizona (the "Pharmacy").

2. In May 2008, Respondent, while working as a pharmacist at CVS, provided Fioricet® (butalbital with acetaminophen and caffeine) to patient CG. Respondent's last prescription for Fioricet® had been filled on February 15, 2008, with no refills remaining.

3. From May 2, 2008, through May 26, 2008, Respondent provided Fioricet to patient CG on ten occasions. No payment for the Fioricet® was made to CVS.

4. On five occasions in May 2008, Respondent received \$5.00 from patient CG. Respondent kept the money that patient CG gave to him.

#### CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. The Board may discipline a pharmacist who has engaged in unprofessional conduct. A.R.S. § 32-1927(A)(1).

3. Respondent's conduct as described above constitutes a violation of A.R.S. § 32-1968(A) ("A prescription-only drug shall be dispensed only under one of the following conditions: (1) By a medical practitioner in conformance with A.R.S. § 32-1921; (2) On a written prescription order bearing the prescribing medical practitioner's manual signature; (3) On an electronically transmitted prescription order containing the prescribing medical practitioner's electronic or digital signature that

1 is reduced promptly to writing and filed by the pharmacist; (4) On a written prescription order  
2 generated from electronic media containing the prescribing medical practitioner's electronic or manual  
3 signature. A prescription order that contains only an electronic signature must be applied to paper that  
4 uses security features that will ensure the prescription order is not subject to any form of copying or  
5 alteration; (5) On an oral prescription order that is reduced promptly to writing and filed by the  
6 pharmacist; (6) By refilling any written, electronically transmitted or oral prescription order if a refill  
7 is authorized by the prescriber either in the original prescription order, by an electronically transmitted  
8 refill order that is documented promptly and filed by the pharmacist or by an oral refill order that is  
9 documented promptly and filed by the pharmacist.”)

11 4. Respondent's practice and conduct, as described above, constitute unprofessional  
12 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (“Violating any federal or state law, rule or regulation  
13 relating to the manufacture or distribution of drugs and devices or the practice of pharmacy.”).

15 5. The conduct and circumstances described above constitute unprofessional conduct  
16 pursuant to A.R.S. § 32-1901.01(B)(10) (“Violating a federal or state law or administrative rule  
17 relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or  
18 precursor chemicals when determined by the board or by conviction in a federal or state court.”).

19 6. Respondent's practice and conduct, as described above, constitute unprofessional  
20 conduct pursuant to A.R.S. § 32-1901.01(B)(11) (“Knowingly dispensing a drug without a valid  
21 prescription order as required pursuant to section 32-1968, subsection A.”).

### 23 ORDER

24 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following  
25 Order:  
26

27 Pharmacist License number S08834 issued to Respondent is hereby suspended for nine months  
28 after which period the license is placed on probation for a period of one and one-half years.  
29

Respondent shall not serve as a pharmacist in charge during the term of probation and shall pay a civil penalty of one thousand dollars (\$1,000.00) for each of the ten (10) unauthorized prescriptions listed above for a total civil penalty of ten thousand dollars (\$10,000.00) within three months after the period of suspension. Respondent shall take and pass the Multistate Pharmacy Jurisprudence Exam (MPJE) before the end of the period of suspension. Respondent shall also pay for the cost of the court reporter utilized during the hearing when invoiced for the serviced by the Board staff.

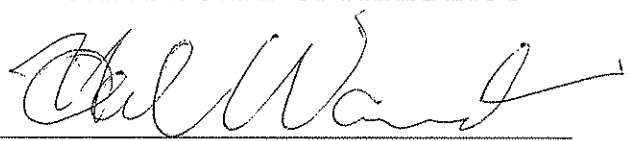
**RIGHT TO PETITION FOR REHEARING OR REVIEW**

Respondent is hereby notified of the right to petition for a rehearing or review by filing a petition with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.A.C. R4-23-128. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

2. Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court.

DATED this 19<sup>th</sup> day of June, 2009.

ARIZONA STATE BOARD OF PHARMACY

By:   
HAL WAND, R.Ph.  
Executive Director

ORIGINAL OF THE FORGOING FILED  
this 23 day of June, 2009, with:

Arizona State Board of Pharmacy  
1700 West Washington Street, Suite 250  
Phoenix, Arizona 85007

1 COPY OF THE FOREGOING MAILED  
2 BY CERTIFIED & REGULAR FIRST CLASS MAIL  
3 this 23 day of June, 2009, to:

4 Harold Olshansky  
5 12719 E. Sahuaro Drive  
6 Scottsdale, Arizona 853259  
7 Respondent

8 COPY OF THE FOREGOING MAILED  
9 this 23 day of June, 2009, to:

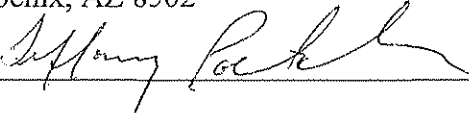
10 Christopher Munns  
11 Assistant Attorney General, CIV/SGO  
12 Attorney for the Board

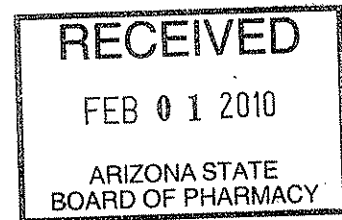
13 Elizabeth A. Campbell  
14 Assistant Attorney General, CIV/LES  
15 Attorney for the State of Arizona

16 Both located at:  
17 1275 W. Washington Street,  
18 Phoenix, Arizona 85007

19 and

20 Teresa M. Sanzio, RN, MPA, JD  
21 Law Office of Teresa M. Sanzio, P.C.  
22 428 E. Thunderbird Road, #238  
23 Phoenix, AZ 8502

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1 TERRY GODDARD  
Attorney General  
2 (Firm State Bar No. 14000)

3 ELIZABETH A. CAMPBELL  
Assistant Attorney General  
4 State Bar No. 018311  
1275 W. Washington, CIV/LES  
5 Phoenix, Arizona 85007-2997  
Tel: (602) 542-7681  
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**  
9

10 In the Matter of

11 **HAROLD OLSHANSKY,**

12 Holder of License No. S08834  
As a Pharmacist  
13 In the State of Arizona

Board Case No. 09-0004-PHR

**AMENDMENT TO BOARD ORDER**

14 The Arizona State Board of Pharmacy ("Board") and Harold Olshansky ("Mr.  
15 Olshansky") hereby enter into this Amendment to the Board Order in Case No. 09-0004-  
16 PHR dated June 19, 2009.

17 Mr. Olshansky and the Board hereby amend the Board Order as set forth in this  
18 Amendment.  
19

20 **RECITALS**

21 1. Mr. Olshansky has read and understands this Amendment and has had the  
22 opportunity to discuss this Amendment with an attorney, or has waived the opportunity to  
23 discuss this Amendment with an attorney.

24 2. Mr. Olshansky affirmatively agrees that this Amendment shall be  
25 irrevocable.  
26

1           3.     Mr. Olshansky acknowledges and agrees that, upon signing this  
2 Amendment and returning this document to the Board's Executive Director, he may not  
3 revoke his acceptance of the Amendment or make any modifications to the document  
4 regardless of whether the Amendment has been signed by the Executive Director. Any  
5 modification to this Amendment is ineffective and void unless mutually agreed by the  
6 parties in writing.

7           4.     Mr. Olshansky understands that this Amendment shall not become effective  
8 unless and until adopted by the Board and signed by its Executive Director.

9           5.     If a court of competent jurisdiction rules that any part of this Amendment is  
10 void or otherwise unenforceable, the remainder of the Amendment shall remain in full  
11 force and effect.

12          6.     Mr. Olshansky understands that this Amendment is a public record that  
13 may be publicly disseminated as a formal action of the Board and may be reported as  
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
15 Protection Data Bank.

16          7.     Mr. Olshansky understands that any violation of this Amendment  
17 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
18 1901.01(B)(20), -1927(A)(1).

19          8.     The Board Order is amended as stated below. All other terms and  
20 provisions of the Findings of Fact, Conclusions of Law and Board Order in Case No. 09-  
21 0004-PHR remain unchanged and in full force and effect.

#### 22                                   **AMENDMENT TO ORDER**

23           **As of the effective date of this Amendment, the Order on pages 3-4 of the**  
24 **Board's Findings of Fact, Conclusions of Law and Board Order in Case No. 09-**  
25 **0004-PHR is amended to read as follows:**

1 In view of the above Findings of Fact and Conclusions of Law, the Board  
2 issues the following Order:

3 Pharmacist License number S08834 issued to Respondent is hereby suspended  
4 for nine months after which period the license is placed on probation for a period of  
5 one and one-half years. Respondent shall not serve as a pharmacist in charge during  
6 the term of probation and shall pay a civil penalty of one thousand dollars (\$1,000.00)  
7 for each of the ten (10) unauthorized prescriptions listed above for a total civil penalty  
8 of ten thousand dollars (\$10,000.00). Respondent shall pay one thousand dollars  
9 (\$1,000) each month beginning on July 24, 2010, with each subsequent payment due  
10 on the 24<sup>th</sup> day of each month thereafter until the \$10,000 civil penalty is paid in full.  
11 If the payment due date falls on a Saturday, Sunday, or State holiday, the payment is  
12 due on the next business day. Each payment must be received in the Board's office  
13 on or before the due date. Respondent shall take and pass the Multistate Pharmacy  
14 Jurisprudence Exam (MPJE) before the end of the period of suspension. Respondent  
15 shall also pay for the cost of the court reporter utilized during the hearing when  
16 invoiced for the services by the Board staff.

17 DATED this 29<sup>th</sup> day of January, 2010.

18  
19  
20 Harold Olshansky  
21 Harold Olshansky

22 Hal Wand  
23 Hal Wand, R.Ph., Executive Director  
24 Arizona State Board of Pharmacy  
25  
26

2/11/2010



1 ORIGINAL OF THE FORGOING FILED  
this 3 day of FEB, 2010, with:

2 Arizona State Board of Pharmacy  
3 1700 West Washington, Suite 250  
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED  
BY FIRST-CLASS and CERTIFIED MAIL  
this 3 day of FEB, 2010, to:

6 Harold Olshansky  
7 12719 E. Sahuaro Drive  
8 Scottsdale, Arizona 85259

9 EXECUTED COPY OF THE FOREGOING MAILED  
this 3 day of FEB, 2010, to:

10 Elizabeth A. Campbell  
Assistant Attorney General  
11 1275 W. Washington Street, CIV/LES  
Phoenix, Arizona 85007

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